

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ALFREDO LEWIS,

Plaintiff,

- against -

POLICE OFFICER BONNIE, Shield # 9033, POLICE
OFFICER MORRIS, Shield # 18322, SERGEANT
VIGILANCE, Shield # 4583, POLICE OFFICER
WASHINGTON, Shield #5127,

Defendants.

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ORDER
09-CV-1282 (RRM)(LB)

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT
★ MAR 01 2010
P.M.
TIME A.M.
Handwritten signature

BLOOM, United States Magistrate Judge:

The Court held a status conference on January 26, 2010, but did not set the discovery schedule as plaintiff informed the Court that he had retained counsel. See docket entry 20. The Court informed plaintiff that if he or his attorney needs an adjournment of a conference in the future, they must contact defendants' counsel to obtain consent for the adjournment and notify the Court forty-eight (48) hours prior to the conference. The Court scheduled another status conference for February 11, 2010. Id. By endorsed Order dated January 29, 2010, the Court adjourned that conference to February 24, 2010 on defendants' request. Plaintiff failed to appear for the February 24, 2010 conference. Defendants' counsel stated that plaintiff had contacted her to say he would be unable to make the February 24, 2010 conference, however, plaintiff failed to request an adjournment or to contact the Court. Plaintiff failed to appear for the conference and no attorney has filed a notice of appearance on plaintiff's behalf.

Rule 16(f) of the Federal Rules of Civil Procedure provides: "if a party or its attorney [] fails to appear at a scheduling or other pretrial conference . . . the court may issue any just orders,

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including those authorized by Rule 37(b)(2)(A)(ii)-(vii).” Under Rule 37(b)(2)(A)(v), the Court may dismiss an action for a party’s failure to comply with a Court order. This is plaintiff’s case to vindicate his rights and the Court will not tolerate plaintiff’s failure to comply with an order.

The Court will schedule another conference to give plaintiff the chance to timely appear. The Court shall hold a conference in this matter on **March 11, 2010** at 3:00 p.m. in Courtroom 11A of the United States Courthouse, 225 Cadman Plaza East, Brooklyn, New York. Plaintiff shall timely appear on March 11, 2010 and shall show good cause why he failed to appear on February 24, 2010. **Plaintiff is warned that if he fails to timely appear at 3:00 p.m. on March 11, 2010, the Court will dismiss this action.** See Valentine v. Museum of Modern Art, 29 F.3d 47, 49 (2d Cir. 1994) (“The severe sanction of dismissal with prejudice may be imposed even against a plaintiff who is proceeding pro se, so long as warning has been given that noncompliance can result in dismissal.”).

SO ORDERED.



LOIS BLOOM
United States Magistrate Judge

Dated: February 25, 2010
Brooklyn, New York